

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FAIR HOUSING JUSTICE CENTER, INC.,

Plaintiff,

v.

PELICAN MANAGEMENT, INC.;
FORDHAM ONE COMPANY, LLC;
CEDAR TWO COMPANY, LLC.,

Defendants.

Case No.: 1:18-cv-01564 (ER)(OTW)

AFFIRMATION OF DIANE L. HOUK, ESQ.

DIANE L. HOUK, being duly sworn, deposes and states under the penalties of perjury:

1. I am a partner in the law firm of Emery Celli Brinckerhoff Abady Ward & Maazel LLP (“ECBAWM”), counsel to Plaintiff Fair Housing Justice Center (“FHJC”) in this case.

2. Now that the Second Circuit Court of Appeals has affirmed the District Court’s September 29, 2023 decision, I submit this supplemental affirmation in further support of Plaintiff’s motion for attorneys’ fees and costs, to include fees and costs following entry of judgment, dated September 29, 2023, through March 3, 2025, the business day prior to this affirmation’s submission. FHJC is not seeking fees or costs for time it anticipates my firm will spend in the future related to this motion and the underlying case itself.

3. FHJC seeks an additional \$145,117.50 in fees and \$5,238.69 in costs, for a combined total of \$1,535,711.00 in attorneys’ fees and \$46,575.61 in costs.

4. This affirmation is made upon personal knowledge, unless otherwise noted. I am familiar with the facts discussed herein and attach as exhibits true and correct copies of the documents mentioned herein.

5. ECBAWM has not been paid attorneys' fees for any time expended on FHJC's behalf in this litigation, including time spent on or after January 5, 2024, drafting this affirmation, compiling the attached exhibits, and opposing Defendant's appeal to the Second Circuit, none of which was included in our previous calculation of fees and costs owed, dated January 5, 2024.¹ *See* ECF No. 205 Ex. 2 (Summary of Fees and Costs Incurred as of January 4, 2024).

6. It is my general and frequent practice, as well as that of other ECBAWM attorneys, to use phrases such as "regarding matter," "regarding case status," and "regarding next steps" when recording time expended on a given case. Such phrases indicate that the recorded task was focused on the case generally and/or on anticipated work related to that case. The phrase "case status" is typically used to discuss with a client or among ECBAWM attorneys or staff work being done on a task or series of tasks to move a case forward in compliance with a Court's case management plan. The phrase "next steps" is typically used to discuss what subsequent actions will be taken and by whom in response to a court order, a communication from a client or opposing counsel, a motion, and other events in the life of a case.

Additional Fees and Costs Incurred in This Case Not Yet Presented to the Court

7. Attached as Exhibit 1 is a full and correct copy of those time entries relating to the work conducted for this case by ECBAWM: (1) from January 5, 2024, until March 3, 2025, the business day before this submission is made, as to ECBAWM's application for fees and costs, and (2) from October 10, 2023, until March 3, 2025, as to Defendants' appeal to the Second Circuit Court of Appeals. Those entries have been redacted as set forth in my November 13, 2023 Affirmation, ECF No. 195 ¶ 5.

¹ As stated in my November 13, 2023 affirmation, we are not seeking to recover fees and costs associated with certain expert discovery that was necessitated by an error in Defendants' expert's report. We reached an agreement with Defendants' counsel for payment of those fees and costs and deducted the time spent from our summary of fees sought. *See* ECF No. 195 ¶ 40 & ECF No. 195 Ex. 2.

8. In keeping with ECBAWM's standard billing practices, Exhibit 1 reflects our hourly billing rates as of 2025. However, for consistency and efficiency, we are discounting our request for attorney fees in this case by basing all of our calculations on our lower 2023 hourly billing rates that we used in our original motion for fees in this case.

9. ECBAWM has not previously calculated or provided to the Court the attorneys' fees incurred for the work included in Exhibit 1.

10. The total amount of attorneys' fees incurred by ECBAWM for the work included in Exhibit 1, using the same billing discretion as previously exercised and described in my November 13, 2023 Affirmation, ECF No. 195 ¶ 38, is \$145,117.50.

11. Attached as Exhibit 2 is a full and correct list of costs incurred for Plaintiff FHJC from January 5, 2024, until March 3, 2025, including costs for legal research done on Westlaw, that were necessary to the litigation of this case.

12. The underlying invoices and receipts for each of the costs listed in Exhibit 2 are maintained at ECBAWM's offices and are available at the Court's request.

13. Exhibit 2 includes an invoice from Dr. Steil, the expert who testified for FHJC at trial. ECBAWM continued to consult with Dr. Steil during the course of Defendants' appeal. Given the appeal's focus on Dr. Steil's opinions, Dr. Steil's input was necessary as we drafted our opposition brief and prepared for oral argument. Dr. Steil's invoice also includes several hours of work conducted in 2023, before the Court's judgment was issued. Dr. Steil was delayed in submitting his invoice and has not previously billed ECBAWM for this work.

14. Exhibit 2 includes costs for train, hotel, and taxi services that I incurred traveling to and from New York, New York, to oppose Defendants' appeal to the Second Circuit Court of Appeals. In the summer of 2024, I moved to Maryland. Other than attending oral argument, I was

able to complete all work necessary for this matter remotely; however, oral argument necessitated multiple hours and forms of travel. For that travel, the time spent on the actual travel time between Baltimore and New York and to and from the court is discounted by fifty (50%) percent.

15. The total amount of costs incurred for this case by ECBAWM from January 5, 2024, until March 3, 2025, is \$5,238.69.

16. The total amount of attorneys' fees and costs being sought by Plaintiff is \$1,582,286.61. Attached as Exhibit 3 is a chart showing ECBAWM's computations to confirm the total amount of attorneys' fees and costs being sought, using the same billing discretion as previously exercised and described in my November 13, 2023 Affirmation, ECF No. 195 ¶ 38.

Dated: March 4, 2025
New York, New York

/s/
DIANE L. HOUK